

EXHIBIT A



JP Perry

From: JP Perry
Sent: Friday, April 7, 2023 11:57 AM
To: Hiraoka JR., Joseph (LAW); NYC Law Protest Team; 'PBALitigationTeam@schlamstone.com'; 'Marykate Acquisto'; 'aquinn@quinnlawny.com'; 'Stephen Mc Quade'; 'anthony.coles@dlapiper.com'; 'Steven Bushnell'; 'Lalit Loomba'
Cc: Payne Litigation Team
Subject: RE: [EXTERNAL] In re 2020 NYC Policing - Payne Second Amended Complaint

Counselor,

Thank you for the City's consent to the *Payne* Plaintiffs' Proposed Second Amended Complaint.

Best,
JP

JP Perry
Staff Attorney
New York Civil Liberties Union
Pronouns: she/her/hers
125 Broad St., New York, NY 10004
■ C: (347) 991-9860 ■ jperry@nyclu.org
www.nyclu.org  



From: Hiraoka JR., Joseph (LAW) <jhiraoka@law.nyc.gov>
Sent: Thursday, April 6, 2023 7:09 PM
To: JP Perry <jperry@nyclu.org>; NYC Law Protest Team <NYCLawProtestTeam@law.nyc.gov>; 'PBALitigationTeam@schlamstone.com' <PBALitigationTeam@schlamstone.com>; 'Marykate Acquisto' <macquisto@quinnlawny.com>; 'aquinn@quinnlawny.com' <aquinn@quinnlawny.com>; 'Stephen Mc Quade' <SMcQuade@pittalaw.com>; 'anthony.coles@dlapiper.com' <anthony.coles@dlapiper.com>; 'Steven Bushnell' <sbushnell@quinnlawny.com>; 'Lalit Loomba' <lloomba@quinnlawny.com>
Cc: Payne Litigation Team <PayneLitigationTeam@nyclu.org>
Subject: RE: [EXTERNAL] In re 2020 NYC Policing - Payne Second Amended Complaint

Dear Counselors:

In furtherance of our 4/3/23 meet and confer, and based on the representations and assurances set forth in your 3/17/23 e-mail, we consent to plaintiffs adding Chief Lehr as a defendant as set forth in the proposed Second Amended Complaint.

Joseph M. Hiraoka, Jr.
Assistant Corporation Counsel
New York City Law Department
Special Federal Litigation Division

100 Church Street
New York, N.Y. 10007
Tel: (212) 356-2413
Fax: (212) 356-1148

From: JP Perry <jperry@nyclu.org>

Sent: Thursday, March 30, 2023 5:01 PM

To: Hiraoka JR., Joseph (LAW) <jhiraoka@law.nyc.gov>; NYC Law Protest Team <NYCLawProtestTeam@law.nyc.gov>; 'PBALitigationTeam@schlamstone.com' <PBALitigationTeam@schlamstone.com>; 'Marykate Acquisto' <macquisto@quinnlawny.com>; 'aquinn@quinnlawny.com' <aquinn@quinnlawny.com>; 'Stephen Mc Quade' <SMcQuade@pittalaw.com>; 'anthony.coles@dlapiper.com' <anthony.coles@dlapiper.com>; 'Steven Bushnell' <sbushnell@quinnlawny.com>; 'Lalit Loomba' <lloomba@quinnlawny.com>

Cc: Payne Litigation Team <PayneLitigationTeam@nyclu.org>

Subject: RE: [EXTERNAL] In re 2020 NYC Policing - Payne Second Amended Complaint

I sent a calendar invite for Monday at 11am. Here is the Teams information for anyone who did not receive the invite but wishes to attend.

Join on your computer, mobile app or room device

[Click here to join the meeting](#)

Meeting ID: 295 239 751 832

Passcode: j6hoqL

[Download Teams](#) | [Join on the web](#)

Or call in (audio only)

[+1 315-498-1260,713820877#](tel:+13154981260713820877) United States, Syracuse

Phone Conference ID: 713 820 877#

[Find a local number](#) | [Reset PIN](#)

Thanks,

JP

JP Perry



Staff Attorney

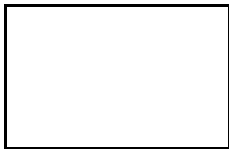
New York Civil Liberties Union

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From: Hiraoka JR., Joseph (LAW) <jhiraoka@law.nyc.gov>

Sent: Thursday, March 30, 2023 4:36 PM

To: JP Perry <jperry@nyclu.org>; NYC Law Protest Team <NYCLawProtestTeam@law.nyc.gov>;

'PBALitigationTeam@schlamstone.com' <PBALitigationTeam@schlamstone.com>; 'Marykate Acquisto'

<macquisto@quinnlawny.com>; 'aquinn@quinnlawny.com' <aquinn@quinnlawny.com>; 'Stephen Mc Quade'

<SMcQuade@pittalaw.com>; 'anthony.coles@dlapiper.com' <anthony.coles@dlapiper.com>; 'Steven Bushnell'

<sbushnell@quinnlawny.com>; 'Lalit Loomba' <lloomba@quinnlawny.com>

Cc: Payne Litigation Team <PayneLitigationTeam@nyclu.org>

Subject: RE: [EXTERNAL] In re 2020 NYC Policing - Payne Second Amended Complaint

Please send an invite for Monday at 11 a.m. Thanks.

Joseph M. Hiraoka, Jr.
Assistant Corporation Counsel
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Special Federal Litigation Division
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From: JP Perry <jperry@nyclu.org>

Sent: Wednesday, March 29, 2023 6:25 PM

To: Hiraoka JR., Joseph (LAW) <jhiraoka@law.nyc.gov>; NYC Law Protest Team <NYCLawProtestTeam@law.nyc.gov>; 'PBALitigationTeam@schlamstone.com' <PBALitigationTeam@schlamstone.com>; 'Marykate Acquisto' <macquisto@quinnlawny.com>; 'aquinn@quinnlawny.com' <aquinn@quinnlawny.com>; 'Stephen Mc Quade' <SMcQuade@pittalaw.com>; 'anthony.coles@dlapiper.com' <anthony.coles@dlapiper.com>; 'Steven Bushnell' <sbushnell@quinnlawny.com>; 'Lalit Loomba' <lloomba@quinnlawny.com>

Cc: Payne Litigation Team <PayneLitigationTeam@nyclu.org>

Subject: RE: [EXTERNAL] In re 2020 NYC Policing - Payne Second Amended Complaint

Counselors,

We are available Monday 10:30-noon or Tuesday before 11 for the meet-and-confer. Please let us know what works for you and we can send around an invite.

We will briefly respond to your request that we share prior to the meet-and-confer why adding Chief Lehr will not prejudice him and why the amendment is timely.

First, in evaluating prejudice, courts consider whether the amendments would “(i) require the opponent to expend significant additional resources to conduct discovery and prepare for trial; (ii) significantly delay the resolution of the dispute; or (iii) prevent the plaintiff from bringing a timely action in another jurisdiction.” *Block v. First Blood Assocs.*, 988 F.2d 344, 350 (2d Cir. 1993). Plaintiffs have already agreed to not propound new discovery requests beyond what has already been requested with respect to any of the newly identified defendants, including Chief Lehr. While we do expect to take his deposition, that has already been scheduled, so adding him as a defendant will not require any additional resources that Defendants have not already committed to expending. There is also no evidence that adding him will in any way delay the case, or even delay the deposition and discovery deadline already in effect.

Second, we do not fully understand Defendants’ statement that adding Chief Lehr is untimely or that the “deadline to add him as a defendant has passed,” so we are interested in hearing what your basis for this assertion is at the meet-and-confer. Leave to amend under FRCP 15(a)(2) “shall be freely given” and mere “delay . . . absent a showing of bad faith or undue prejudice does not provide a basis for a district court to deny the right to amend.” *Id.* (citing *State Tchrs. Ret. Bd. v. Fluor Corp.*, 654 F.2d 843, 856 (2d Cir. 1981)). As we mentioned before, our decision to add Chief Lehr as a defendant in the *Payne* lawsuit is supported by information that we have obtained in our ongoing review of the discovery, and that information was not available to us at the time we filed the case or when we first amended the complaint. But the timing issue seems beside the point because we have demonstrated the amendment will not prejudice Defendants. If the concern is instead about the statute of limitations, we are not aware of any statute of limitations issues.

Best,
JP

JP Perry



Staff Attorney

New York Civil Liberties Union

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From: Hiraoka JR., Joseph (LAW) <jhiraoka@law.nyc.gov>

Sent: Wednesday, March 29, 2023 4:17 PM

To: JP Perry <jperry@nyclu.org>; NYC Law Protest Team <NYCLawProtestTeam@law.nyc.gov>;

'PBALitigationTeam@schlamstone.com' <PBALitigationTeam@schlamstone.com>; 'Marykate Acquisto' <macquisto@quinnlawny.com>; 'aquinn@quinnlawny.com' <aquinn@quinnlawny.com>; 'Stephen Mc Quade' <SMcQuade@pittalaw.com>; 'anthony.coles@dlapiper.com' <anthony.coles@dlapiper.com>; 'Steven Bushnell' <sbushnell@quinnlawny.com>; 'Lalit Loomba' <lloomba@quinnlawny.com>

Cc: Payne Litigation Team <PayneLitigationTeam@nyclu.org>

Subject: RE: [EXTERNAL] In re 2020 NYC Policing - Payne Second Amended Complaint

Dear Counselor:

Defendants believe a meet and confer may be productive on the issue of adding Chief Lehr as a defendant. Please advise when you are available to meet either later this week or Monday.

Also, before the meet and confer, please provide the basis for your position that adding Chief Lehr as a defendant is timely and that it would not be prejudicial to him.

Thank you.

Joseph M. Hiraoka, Jr.

Assistant Corporation Counsel

New York City Law Department

Special Federal Litigation Division

100 Church Street

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Tel: (212) 356-2413

Fax: (212) 356-1148

From: JP Perry <jperry@nyclu.org>

Sent: Monday, March 27, 2023 1:37 PM

To: Hiraoka JR., Joseph (LAW) <jhiraoka@law.nyc.gov>; NYC Law Protest Team <NYCLawProtestTeam@law.nyc.gov>;

'PBALitigationTeam@schlamstone.com' <PBALitigationTeam@schlamstone.com>; 'Marykate Acquisto'

<macquisto@quinnlawny.com>; 'aquinn@quinnlawny.com' <aquinn@quinnlawny.com>; 'Stephen Mc Quade' <SMcQuade@pittalaw.com>; 'anthony.coles@dlapiper.com' <anthony.coles@dlapiper.com>; 'Steven Bushnell' <sbushnell@quinnlawny.com>; 'Lalit Loomba' <lloomba@quinnlawny.com>

Cc: Payne Litigation Team <PayneLitigationTeam@nyclu.org>

Subject: RE: [EXTERNAL] In re 2020 NYC Policing - Payne Second Amended Complaint

Counselor:

Thank you for consenting to plaintiffs in *Payne* substituting named officers for the John Doe officers as set forth in the proposed Second Amended Complaint.

We disagree that adding Chief Lehr as a defendant is untimely or prejudicial. It appears we are only at an impasse on this proposed amendment, so will move the court with respect to adding Chief Lehr as a defendant unless you would like to meet to discuss further. Please let us know if you think a meet-and-confer would be productive no later than this Wednesday, 3/29.

Thanks,
JP

JP Perry



Staff Attorney

New York Civil Liberties Union

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From: Hiraoka JR., Joseph (LAW) <jhiraoka@law.nyc.gov>

Sent: Friday, March 24, 2023 10:25 AM

To: JP Perry <jperry@nyclu.org>; NYC Law Protest Team <NYCLawProtestTeam@law.nyc.gov>;

'PBALitigationTeam@schlamstone.com' <PBALitigationTeam@schlamstone.com>; 'Marykate Acquisto'

<macquisto@quinnlawny.com>; 'aquinn@quinnlawny.com' <aquinn@quinnlawny.com>; 'Stephen Mc Quade'

<SMcQuade@pittalaw.com>; 'anthony.coles@dlapiper.com' <anthony.coles@dlapiper.com>; 'Steven Bushnell'

<sbushnell@quinnlawny.com>; 'Lalit Loomba' <lloomba@quinnlawny.com>

Cc: Payne Litigation Team <PayneLitigationTeam@nyclu.org>

Subject: RE: [EXTERNAL] In re 2020 NYC Policing - Payne Second Amended Complaint

Dear Counselors:

After reviewing this case, we object to plaintiffs adding Chief Lehr as a defendant in the proposed Second Amended Complaint. It is prejudicial to him to be named a defendant. We see no reason why Chief Lehr should be added as a defendant at this late juncture. Chief Lehr's deposition can still go forward and you can still use his deposition testimony in your case without having to add him as a defendant. Your deadline to add him as a defendant has passed. However, aside from adding Chief Lehr as a defendant, based on your representations and assurances, we consent to plaintiffs substituting named officers for the John Doe officers as set forth in the proposed Second Amended Complaint.

Joseph M. Hiraoka, Jr.
Assistant Corporation Counsel
New York City Law Department
Special Federal Litigation Division
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From: JP Perry <jperry@nyclu.org>
Sent: Friday, March 17, 2023 4:15 PM
To: Hiraoka JR., Joseph (LAW) <jhiraoka@law.nyc.gov>; NYC Law Protest Team <NYCLawProtestTeam@law.nyc.gov>; 'PBALitigationTeam@schlamstone.com' <PBALitigationTeam@schlamstone.com>; 'Marykate Acquisto' <macquisto@quinnlawny.com>; 'aquinn@quinnlawny.com' <aquinn@quinnlawny.com>; 'Stephen Mc Quade' <SMcQuade@pittalaw.com>; 'anthony.coles@dlapiper.com' <anthony.coles@dlapiper.com>; 'Steven Bushnell' <sbushnell@quinnlawny.com>; 'Lalit Loomba' <lloomba@quinnlawny.com>
Cc: Payne Litigation Team <PayneLitigationTeam@nyclu.org>
Subject: RE: [EXTERNAL] In re 2020 NYC Policing - Payne Second Amended Complaint

Counsel,

Thanks for your email and for considering our request. It would be easier to discuss your questions during a meet-and-confer. Can you send a few dates you are available to meet?

Briefly, in response to your first question, I wanted to more generally share our thinking here. While we have identified officers on a rolling basis, and indeed notified Defendants of some of these in my June 2, 2021 email, we wanted to wait to amend the complaint until we had received all of the relevant discovery and taken all of the relevant depositions for most of the John Doe officers. We did this in an effort to streamline this process for the Court and all of the parties. We wanted to avoid having to discuss and file multiple amended complaints, and also wanted to be careful not to accidentally misidentify officers only to have to withdraw them later once we learned more information in depositions and from receiving additional discovery. Even though we are seeking to amend now, discovery for a number of these Doe defendants is still ongoing. For some, their depositions have been noticed for quite some time but still have not been scheduled. Other proposed defendants' depositions were scheduled but had to be rescheduled. While we were hoping to be in a position to file the proposed second amended complaint sooner, several line officers have been put off and so we are doing it now. We are happy to discuss more during a meet-and-confer to the extent you have specific questions about particular proposed defendants.

As to your second question, the allegations in paragraphs 21 and 62 of the proposed amended complaint are supported by information that we have obtained in our ongoing review of the discovery. Concerning adding Chief Lehr as a defendant, we note that he is already scheduled to be deposed in the near future. Accordingly, we see no prejudice in adding him as a defendant in Payne at this stage of the litigation.

As to your third question, if the City agrees to consent to the proposed amendments, we are willing to forego propounding additional discovery demands with respect to those proposed defendants and amendments. However, to the extent discovery for any of the proposed defendant or amendments is outstanding (e.g. the deposition of PO Tarlecki), we reserve the right to follow-up on that discovery. For example, we reserve the right to take the depositions of the newly named individuals (if they have not yet been deposed) because they have already been noticed.

Regarding your fourth question, I attached the full email chain to my last email. No one from the Law Department ever responded to my June 2, 2021, email.

To ensure we have a productive discussion, in advance of the meet-and-confer, it would be helpful if you could let us know if the City plans to withhold its consent to any of the proposed amendments, and if so, on what basis?

Thanks,
JP

JP Perry


Staff Attorney

New York Civil Liberties Union

Pronouns: she/her/hers

125 Broad St., New York, NY 10004

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From: Hiraoka JR., Joseph (LAW) <jhiraoka@law.nyc.gov>

Sent: Wednesday, March 15, 2023 3:06 PM

To: JP Perry <jperry@nyclu.org>; NYC Law Protest Team <NYCLawProtestTeam@law.nyc.gov>; 'PBALitigationTeam@schlamstone.com' <PBALitigationTeam@schlamstone.com>; 'Marykate Acquisto' <macquisto@quinnlawny.com>; 'aquinn@quinnlawny.com' <aquinn@quinnlawny.com>; 'Stephen Mc Quade' <SMcQuade@pittalaw.com>; 'anthony.coles@dlapiper.com' <anthony.coles@dlapiper.com>; 'Steven Bushnell' <sbushnell@quinnlawny.com>; 'Lalit Loomba' <lloomba@quinnlawny.com>

Cc: Payne Litigation Team <PayneLitigationTeam@nyclu.org>

Subject: RE: [EXTERNAL] In re 2020 NYC Policing - Payne Second Amended Complaint

After reviewing your proposed amended complaint, we have some questions. Please advise us of the following:

1. What discovery did you only receive now that make the officers you want to add the correct John Doe officers;
2. Where are you getting the information from that "Chief Lehr has been delegated final policymaking authority with respect to NYPD patrol officer practices in the Bronx including, but not limited to, planning for the policing of protests, the deployment of officers to protests, use of force by officers, enforcing curfew orders, and arrests."; and that "After learning of the messages of groups he believed would be protesting on that day, Chief Lehr decided to use an aggressive strategy against the protestors in Mott Haven." as set forth in paragraphs 21 and 62 of the proposed amended complaint;
3. When you say that the proposed amendments will not require additional discovery beyond what you have already sought and will not pose any special burden on defendants, please advise if that means that plaintiffs will not serve additional discovery demands and that there will be no supplemental discovery responses sought based on the proposed amendments; and
4. Where is the response to your e-mail of 6/2/21 at 4:02 p.m. where you advised that you had identified these John Doe officers. Please provide the full email chain on this issue.

Thank you.


Joseph M. Hiraoka, Jr.
Assistant Corporation Counsel

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Fax: (212) 356-1148

From: JP Perry <jperry@nyclu.org>
Sent: Tuesday, March 14, 2023 9:17 AM
To: Hiraoka JR., Joseph (LAW) <jhiraoka@law.nyc.gov>; NYC Law Protest Team <NYCLawProtestTeam@law.nyc.gov>; 'PBALitigationTeam@schlamstone.com' <PBALitigationTeam@schlamstone.com>; 'Marykate Acquisto' <macquisto@quinnlawny.com>; 'aquinn@quinnlawny.com' <aquinn@quinnlawny.com>; 'Stephen Mc Quade' <SMcQuade@pittalaw.com>; 'anthony.coles@dlapiper.com' <anthony.coles@dlapiper.com>; 'Steven Bushnell' <sbushnell@quinnlawny.com>; 'Lalit Loomba' <lloomba@quinnlawny.com>
Cc: Payne Litigation Team <PayneLitigationTeam@nyclu.org>
Subject: RE: [EXTERNAL] In re 2020 NYC Policing - Payne Second Amended Complaint

Thank you for letting us know.

Best,
JP

JP Perry
Staff Attorney
New York Civil Liberties Union
Pronouns: she/her/hers
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From: Hiraoka JR., Joseph (LAW) <jhiraoka@law.nyc.gov>
Sent: Monday, March 13, 2023 7:21 PM
To: JP Perry <jperry@nyclu.org>; NYC Law Protest Team <NYCLawProtestTeam@law.nyc.gov>; 'PBALitigationTeam@schlamstone.com' <PBALitigationTeam@schlamstone.com>; 'Marykate Acquisto' <macquisto@quinnlawny.com>; 'aquinn@quinnlawny.com' <aquinn@quinnlawny.com>; 'Stephen Mc Quade' <SMcQuade@pittalaw.com>; 'anthony.coles@dlapiper.com' <anthony.coles@dlapiper.com>; 'Steven Bushnell' <sbushnell@quinnlawny.com>; 'Lalit Loomba' <lloomba@quinnlawny.com>
Cc: Payne Litigation Team <PayneLitigationTeam@nyclu.org>
Subject: FW: [EXTERNAL] In re 2020 NYC Policing - Payne Second Amended Complaint

Dear Counselor,

We are still in the process of reviewing your request. We will try to give you our answer by this Wednesday, March 15th.

Joseph M. Hiraoka, Jr.
Assistant Corporation Counsel
New York City Law Department
Special Federal Litigation Division
100 Church Street

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From: Hiraoka JR., Joseph (LAW)

Sent: Thursday, March 9, 2023 7:11 PM

To: 'JP Perry' <jperry@nyclu.org>; NYC Law Protest Team <NYCLawProtestTeam@law.nyc.gov>; PBALitigationTeam@schlamstone.com; Marykate Acquisto <macquisto@quinnlawny.com>; aquinn@quinnlawny.com; Stephen Mc Quade <SMcQuade@pittalaw.com>; anthony.coles@dlapiper.com

Cc: Payne Litigation Team <PayneLitigationTeam@nyclu.org>

Subject: RE: [EXTERNAL] In re 2020 NYC Policing - Payne Second Amended Complaint

Dear Mr. Perry,

We are in the process of reviewing your request, and intend to give you our answer by Monday, March 13th.

Joseph M. Hiraoka, Jr.

Assistant Corporation Counsel

New York City Law Department

Special Federal Litigation Division

100 Church Street

New York, N.Y. 10007

Tel: (212) 356-2413

Fax: (212) 356-1148

From: JP Perry <jperry@nyclu.org>

Sent: Wednesday, March 1, 2023 11:30 AM

To: NYC Law Protest Team <NYCLawProtestTeam@law.nyc.gov>; PBALitigationTeam@schlamstone.com; Marykate Acquisto <macquisto@quinnlawny.com>; aquinn@quinnlawny.com; Stephen Mc Quade <SMcQuade@pittalaw.com>; anthony.coles@dlapiper.com

Cc: Payne Litigation Team <PayneLitigationTeam@nyclu.org>

Subject: [EXTERNAL] In re 2020 NYC Policing - Payne Second Amended Complaint

CAUTION: This email originated from outside of the organization. Do not click links or open attachments unless you recognize the sender and know the content is safe. Forward suspect email to phish@oti.nyc.gov as an attachment (Click the More button, then forward as attachment).

Counsel,

We are writing to seek consent to file the attached proposed Second Amended Complaint in the *Payne* case. The proposed amendments, as you can see in the attached red line, are minimal and will not require additional discovery beyond what we've already sought, so will not pose any special burden on Defendants. For the most part, these amendments involve officers who we believe to be Doe defendants in our case. We notified you of some of these individuals previously in June 2021 (see attached). The line officers we have identified are:

- Sergeant Majer Saleh
- Officer Bryan S. Rozanski
- Office Jakub Tarlecki
- Officer Stephanie Chen
- Officer Taylor Corcoran
- Officer Bryan Pizzimenti

- Officer Hensley Caraballo

In fact, with the exception of Chief Kenneth Lehr (whose deposition will take place in a couple of weeks) and Officer Jakub Tarlecki (who has been noticed but not yet scheduled), all of the officers who are newly named in the proposed complaint have been deposed. The City has been on notice as to most of these individuals' involvement in the case for quite some time.

We also seek to update the name of our plaintiff, James Lauren, who was previously identified as Jaime Fried. Attached is correspondence with the City advising Defendants of Mx. Lauren's name change in April 2021 in advance of their deposition.

As you can see in the attached, we are also willing to dismiss three current named defendants: Sergeant Gypsy Pichardo, Officer Jacqueline Vargas, and Lt. Thomas Hardell. The updated complaint also reflects the dismissal of Police Commissioner Dermot Shea.

The only reason we would anticipate needing to amend again would be to name additional Doe defendants, so we reserve the right to seek consent to do so if any new information becomes available to us in discovery.

Given how standard and noncontroversial these proposed amendments are, we'd like to avoid incurring unnecessary attorneys' fees seeking leave from the Court, so hope that the City and Union-Intervenors will agree to consent. As you are aware, the City and PBA recently consented to similar non-controversial amendments in the *Gray* case (ECF 761).

Please let us know your position by Thursday, March 9.

Thanks,
JP

JP Perry

Staff Attorney

New York Civil Liberties Union

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